

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

GILEAD SCIENCES, INC.,  
Plaintiff,  
v.  
MERCK & CO, INC., et al.,  
Defendants.

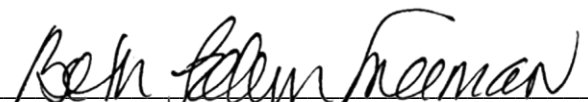
Case No. [13-cv-04057-BLF](#)

**ORDER DENYING GILEAD'S MOTION  
FOR JUDGMENT AS A MATTER OF  
LAW AND ENTERING FINAL  
JUDGMENT**

On consideration of Gilead's Motion for Judgment as a Matter of Law (ECF No. 432), it is hereby ORDERED that Gilead's Motion is DENIED as moot, because the Court has previously held that unclean hands "renders Merck's '499 and '712 Patents unenforceable against Gilead." ECF No. 422; *cf.* Wright & Miller, 13 B Fed. Prac. & Proc. Juris. § 3533 (3d ed.) ("When a court grants full relief on one ground, it may refer to an alternative ground that might support the same relief as moot."). This resolves all pending issues except for a collateral matter—the amount of attorney's fees that should be awarded to Gilead. Final judgment is hereby entered.

**IT IS SO ORDERED.**

Dated: August 16, 2016

  
BETH LABSON FREEMAN  
United States District Judge